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**BEFORE THE ARIZONA CORPORATION COMMISSION**

MIKE GLEASON  
Chairman  
WILLIAM A. MUNDELL  
Commissioner  
JEFF HATCH-MILLER  
Commissioner  
KRISTIN K. MAYES  
Commissioner  
GARY PIERCE  
Commissioner

Arizona Corporation Commission

**DOCKETED**

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IN THE MATTER OF THE  
APPLICATION OF UNION PACIFIC  
RAILROAD COMPANY TO ALTER  
FOUR CROSSINGS OF THE UNION  
PACIFIC RAILROAD IN COCHISE  
COUNTY.

DOCKET NO. RR-03639A-07-0422

ORDER AMENDING DECISION NO. 70161

DECISION NO. 70327**ORDER**

Open Meeting  
April 24, 2008  
Phoenix, Arizona

**BY THE COMMISSION:**FINDINGS OF FACT

1. On February 27, 2008, the Arizona Corporation Commission ("Commission") issued Decision No. 70161 in Docket No. RR-03639A-07-0422. Decision No. 70161 granted Union Pacific Railroad Company's ("Railroad") application to alter four crossings in Cochise County; Maley Street, Stewart Street, and Patte Road in the Town of Wilcox, and Country Club Drive in Cochise County.

2. Finding of Fact ¶ 9 at page 4, lines 1-2 of the decision states that with regard to the Maley Street crossing, AAR/DOT No. 741 397H, "A concrete median will be installed to the north and south of the tracks to accommodate additional gates and to preclude motorists from driving around them." The statement reflected information provided in the Commission Railroad Safety Section Staff's ("Staff") Staff Report at page 2 filed on October 26, 2007. The Staff Report stated, ...

1 "A median will be installed in both directions at the crossing to accommodate additional gates and  
2 to help prevent motorists from driving around the lowered gates."

3 3. At the evidentiary hearing held on November 20, 2007, Staff witness Chris Watson  
4 explained on the record that:

5 Q. I noted that with regard to the Maley Street upgrades that are proposed that  
6 there is an indication in the Staff report that a median will be installed in both  
7 directions at the crossing to accommodate additional gates and to help prevent  
8 motorists from driving around the lowered gates. Since preparing the report  
9 have you been provided information concerning the purpose for which the  
10 medians are being proposed?

11 A. Prior to the hearing I was informed that there will [not be] median gates on  
12 that median at the Maley Street crossing. There will be a median there, but it  
13 will be there to help prevent circumvention of gates being put in there and the  
14 cantilevers.

15 Q. So the primary purpose, as you understand it, for the installation of the median  
16 at Maley Street is to prevent motorists from driving around the lowered gates?

17 A. Correct.

18 (Transcript of hearing before Judge Stern on November 20, 2007, p. 8, lines 7-24,

19 4. At the Open Meeting held on April 24, 2008, Staff and the Railroad clarified that  
20 the gate posts will be mounted along the curbsides at the crossing. The parties explained that  
21 because the individual gate arms are long enough to cover one lane of traffic, for a two lane road,  
22 there are only the gates positioned along the curbsides.

23 5. The parties further explained that there will be an upraised concrete median to  
24 prevent motorists from circumventing the gates. The lowered gate will extend from the respective  
25 outside curb to within 12 inches of the upraised median. The Railroad explains that the crossing  
26 configuration, thus clarified, will prevent motorists from circumventing the crossing gates.

27 6. On March 14, 2008, the Railroad and Staff filed a Joint Motion to Amend Decision  
28 No. 70161. Therein, the parties requested that the Commission approve an amendment to the  
language in Decision No. 70161 that would make the order consistent with the testimony provided  
at the evidentiary hearing. To date, the Railroad has not constructed the medians at the Maley  
Street crossing pending Commission clarification of the approval granted in Decision No. 70161.

## CONCLUSIONS OF LAW

ORDER

.....

IT IS FURTHER ORDERED that Decision No. 70161 shall remain in effect in all other respects.

IT IS FURTHER ORDERED that this decision shall be effective immediately.

BY THE ORDER OF THE ARIZONA CORPORATION COMMISSION

*Laurel H. McNeil*

CHAIRMAN

*William A. McNeil*

COMMISSIONER

*Jeffrey H. Hatch-Miller*

COMMISSIONER

*[Signature]*

COMMISSIONER

*Gary D. Stein*

COMMISSIONER

IN WITNESS WHEREOF, I, BRIAN C. McNEIL, Executive Director of the Arizona Corporation Commission, have hereunto, set my hand and caused the official seal of this Commission to be affixed at the Capitol, in the City of Phoenix, this 2nd day of April, 2008.

*[Signature]*  
BRIAN C. McNEIL  
Executive Director

DISSENT: \_\_\_\_\_

DISSENT: \_\_\_\_\_

1 SERVICE LIST FOR: Union Pacific Railroad Company  
2 DOCKET NO. RR-03639A-07-0422

3 Anthony J. Hancock, Esq.  
4 Terrance L. Sims, Esq.  
5 Beaugureau, Zukowski & Hancock, P.C.  
6 2111 East Highland Avenue, Suite 225  
7 Phoenix, Arizona 85016  
8 Attorney for Union Pacific Railroad  
9 Company

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26  
27  
28  
James H. Smith  
Union Pacific Railroad Company  
10031 Foothills Blvd.  
Roseville, California 95747